UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/51/538/Add.1
12 December 1996

ORIGINAL: ENGLISH

Fifty-first session
Agenda item 110 (c)

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

The situation of human rights in Nigeria

Note by the Secretary-General

Addendum

The Special Rapporteurs wish to inform the General Assembly of the additional correspondence that has been exchanged between the two Special Rapporteurs and the Government of Nigeria since the preparation of their joint report to the General Assembly.

CONTENTS

		Paragraphs	Page
I.	Communications with the Government	1 - 9	2
II.	Additional preliminary observations	10	4

97-00796 (E) 230197

I. COMMUNICATIONS WITH THE GOVERNMENT

1. On 4 October 1996, the Permanent Representative of Nigeria to the United Nations Office at Geneva replied to the letters of the Special Rapporteurs, dated 30 July and 6 September 1996, respectively. The Permanent Representative reiterated the Government's commitment to accede to the request of the Special Rapporteurs to carry out a joint investigative visit to Nigeria. He also informed the Special Rapporteurs that, since March 1996, the Government of Nigeria had been seized with the management of a number of successive visits to Nigeria, such as the United Nations fact-finding mission, the African Commission on Human Rights, the Commonwealth Ministerial Action Group, the United Nations goodwill mission to Nigeria and Cameroon and many others. In addition, he stated that the Government and people of Nigeria have committed themselves to the faithful and orderly implementation of the Programme of Transition to Civil Rule. The Permanent Representative further stated that as a consequence of those visits, it had become difficult to accede to the request of the Special Rapporteurs to carry out a mission to Nigeria in the specified time-frame. Upon instructions of the Government of Nigeria, he reiterated Nigeria's willingness and readiness to welcome the Special Rapporteurs and proposed the last week of November 1996 or the second week of December 1996 as possible dates for the visit.

2. On 7 October 1996, the Special Rapporteurs informed the Government of Nigeria that they were pleased to accept the invitation of the Government. In addition, they expressed their preference for the first alternative proposed by the Government, that is, the last week of November 1996. In view of the fact that the Special Rapporteurs believed that the mission would require a minimum of 10 working days in the country, they suggested that the mission should tentatively take place from 25 November to 5 December 1996. The Special Rapporteurs also enclosed for the information of the Government the standard terms of reference for fact-finding missions by Special Rapporteurs/representatives of the Commission on Human Rights.

3. On 8 November 1996, the Permanent Representative acknowledged receipt of the letter of 7 October 1996 and informed the Special Rapporteurs that, upon receipt of the precise details of the mission, the Government would also be informed.

4. Subsequently, a note verbale dated 18 October 1996 was received from the Permanent Mission at Geneva, requesting further clarification from the Centre for Human Rights regarding the following issues:

(a) As to the precise mandate of the Rapporteurs, it was the understanding of the Government that, in accordance with Commission on Human Rights resolution 1996/79 of 23 April 1996, the Rapporteurs are "thematic" and not "special" Rapporteurs, thus, the terms of reference sent by the two Rapporteurs did not seem to be meant for thematic Rapporteurs;

(b) Assurances that the thematic Rapporteurs would work strictly within their express mandate;

(c) While assuring the Rapporteurs' unfettered access to persons and places to discharge their mandate, the Government of Nigeria requested that decisions about their itinerary, places and persons to visit should be a matter to be mutually agreed upon between the Rapporteurs and officials of the Government of Nigeria;

(d) That, as per the Rapporteurs' earlier request to visit Nigeria from 9 to 17 October 1996, which was accepted in principle, it was the Government's view that there was no compelling reason to extend the visit any further. In that regard, the Government of Nigeria expected the Rapporteurs to propose, for discussion, an itinerary for a week's visit.

5. The Government further stated that, owing to the impending visit of the Commonwealth Ministerial Action Group, local government elections and the ongoing consolidation of the newly created States, all scheduled to take place in November 1996, it regretted that 25 November 1996, the first date that the Rapporteurs had expressly preferred, was not convenient to Nigeria. The Government requested the indulgence of the thematic Rapporteurs to consider the second alternative, that the visit take place in the second week of December 1996, for one week only.

6. On 24 October 1996, the United Nations High Commissioner for Human Rights/Centre for Human Rights transmitted to the Permanent Mission of Nigeria a note verbale to clarify the issues raised. The Secretariat informed the Permanent Mission that in the discharge of their mandates, all special rapporteurs of the Commission on Human Rights act in their capacity as independent experts. It was thus within their discretion to propose to the Government of any country that they would wish to visit a programme that they considered to be relevant to their mandates. The note verbale from the Centre also stated that it remained, of course, the prerogative of the Government to approve the proposed dates, programmes and itinerary. As to the terms of reference, the Permanent Mission was informed that those attached to the letter dated 7 October 1996 from the Special Rapporteurs were the standard terms of reference that were used for country visits of all special rapporteurs of the Commission on Human Rights, both thematic and country-specific.

7. On 25 October 1996, the Special Rapporteurs, in reply to the note verbale of 18 October 1996 of the Permanent Mission of Nigeria, stated that, in their view, the terms of reference attached to their letter of 7 October 1996 were the standard minimum guarantees required for any mission to be conducted by special rapporteurs of the Commission on Human Rights. The Special Rapporteurs therefore stated that the acceptance of those terms of reference by the Government of Nigeria would be a prerequisite for undertaking the mission. The Special Rapporteurs also informed the Government that they would wish to visit several regions of the country, such as Lagos, Abuja, Kaduna, Kano and Port Harcourt, and that in their view the mission would require a minimum of two weeks.

8. Finally, the Special Rapporteurs stated that until those two issues were clarified, it would be premature to consider the second alternative proposed by the Government, that is, the second week of December, or to propose an itinerary for a week's visit.

9. The Government acknowledged receipt of the note verbale on 25 October 1996.

II. ADDITIONAL PRELIMINARY OBSERVATIONS

10. The Special Rapporteurs wish to make the following preliminary observations:

(a) In view of the correspondence referred to above, the Special Rapporteurs regret to conclude that the Government of Nigeria has failed to comply with Commission on Human Rights resolution 1996/79. The conditions attached to the acceptance of the proposed mission, as well as the lack of reply to the letter of 25 October 1996 from the two Special Rapporteurs, have resulted in a situation in which it was impossible for the Special Rapporteurs to carry out a mission to Nigeria;

(b) The Special Rapporteurs also regret that the Government of Nigeria invoked its preparation for missions of other organizations or organs, as well as activities in the framework of the implementation of the Programme of Transition to Civil Rule, as reasons for not receiving the two Special Rapporteurs at a time that had been previously proposed by the Government. They wish to emphasize that they welcome and encourage the implementation of the Programme of Transition to Civil Rule;

(c) The Special Rapporteurs wish to reiterate that the acceptance of the terms of reference by the Government of Nigeria is, in their opinion, a conditio sine qua non before further negotiations can take place with regard to the time-frame, programme or itinerary of the visit;

(d) If the Special Rapporteurs are unable to carry out the mission to Nigeria, they will be left with no alternative but to submit their final report to the Commission on Human Rights based on information received on the human rights situation in Nigeria from third-party sources. In this regard, the Special Rapporteurs note that the deadline for submission of reports to the Commission on Human Rights is 15 December 1996;

(e) The Special Rapporteurs call upon the General Assembly to adopt appropriate measures commensurate to expressing deep concern at the recalcitrant attitude of the Government of Nigeria.